

# WILLKIE FARR & GALLAGHER<sup>LLP</sup>

March 15, 2024

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## VIA ECF AND EMAIL

The Honorable Katherine Polk Failla  
U.S. District Court for the Southern District of New York  
Thurgood Marshall United States Courthouse  
40 Foley Square  
New York, NY 10007

**MEMO ENDORSED**

Re: *In re Tether and Bitfinex Crypto Asset Litigation*, No. 1:19-cv-09236-KPF – Letter Motion to File Defendant Philip G. Potter’s Opposition Brief with Redactions

Dear Judge Failla:

I write on behalf of Defendant Philip G. Potter (“Mr. Potter”) in the above-referenced action. Pursuant to Rule 9(B)(i) of Your Honor’s Individual Rules of Practice, Mr. Potter respectfully requests leave to file a redacted version of his Opposition Brief to Plaintiffs’ Motion for Leave to Amend (the “Opposition Brief”).

On December 8, 2023, Mr. Potter filed his Opposition Brief under seal. ECF Nos. 502 & 503. Within Mr. Potter’s Letter Motion to Seal his Opposition Brief (the “Letter Motion to Seal”), Mr. Potter respectfully requested leave to file a redacted version of his Opposition Brief by December 22, 2023. ECF No. 502. The redacted version of the Opposition Brief would reflect any redactions made to Plaintiffs’ proposed Second Amended Consolidated Complaint (the “SAC”), which had been filed under seal. ECF No. 480-1.

On December 18, 2023, the Court granted Mr. Potter’s Letter Motion to Seal. ECF No. 509. That same day, the Court denied, without prejudice, Plaintiffs’ Motion for Leave to File Redacted Versions of the SAC and Motion for Leave to Amend, ECF No. 511, ordering the parties to meet-and-confer with the Anonymous Trader regarding the Anonymous Trader’s proposed redactions to those documents.

In light of the Court’s December 18 orders, on December 21, 2023, Mr. Potter filed a Letter Motion to Extend his Deadline to File a Redacted Version of the Opposition Brief (the “Motion to Extend”), asking the Court to allow Mr. Potter to file a redacted version of the Opposition Brief after Plaintiffs filed redacted versions of the proposed SAC and Motion for Leave to Amend. ECF No. 512. On January 16, 2024, the Court granted Mr. Potter’s Motion to Extend. ECF No. 517.

As of the submission of this letter motion, Plaintiffs have yet to file redacted versions of the proposed SAC or their Motion for Leave to Amend pursuant to the Court’s December 18 order.

On March 13, 2024, after conferring with the Anonymous Trader, the Bitfinex-Tether Defendants (the “B-T Defendants”) submitted their Motion for Leave to File Redacted Versions of (i) their Opposition to Plaintiffs’ Motion for Leave to Amend and (ii) their Proposed Sur-Reply in Opposition to Plaintiffs’

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Motion for Leave to Amend. ECF Nos. 523, 525–529. The Court granted the B-T Defendants’ motion in part on March 14, 2024. ECF No. 530.

Following the B-T Defendants’ March 13, 2024 submission, and in view of the fact that no redacted version of the proposed SAC has been filed more than three months after Mr. Potter filed his Opposition Brief, Mr. Potter conferred with the Anonymous Trader regarding the proposed redactions made to Mr. Potter’s Opposition Brief. On March 15, 2024 Mr. Potter and the Anonymous Trader reached an agreement on the proposed redactions to Mr. Potter’s Opposition Brief.

Enclosed is a copy of Mr. Potter’s Opposition Brief containing the proposed redactions highlighted in yellow (the “Proposed Redacted Opposition Brief”) as well as a copy of the Opposition Brief with the redactions applied (the “Redacted Opposition Brief”).

Pursuant to Rule 9(B)(i) of Your Honor’s Individual Rules of Practice, the Proposed Redacted Opposition Brief will be filed under seal, and the Redacted Opposition Brief will be filed publicly.

Respectfully submitted,

/s/ Charles D. Cording

Charles D. Cording

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Application GRANTED. The Clerk of Court is directed to maintain docket entry 533 under seal, viewable to the Court and the parties only.

The Clerk of Court is directed to terminate the pending motion at docket entry 532.

Dated: March 15, 2024  
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA  
UNITED STATES DISTRICT JUDGE